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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA) CR. NO. S-99-433-WBS
)
Plaintiff,) GOVERNMENT'S REQUEST FOR
) ADDITIONAL TIME TO FILE ITS
v.) OPPOSITION TO DEFENDANT JOHN THAT
) LUONG'S MOTION TO DISMISS RE:
JOHN THAT LUONG, et al.,) PINKERTON THEORY AND HOBBS ACT,
) AND MOTION TO DISMISS THE
Defendants.) INDICTMENT
)

The United States of America, through its counsels of record, Benjamin B. Wagner, United States Attorney for the Eastern District of California, and William S. Wong, Assistant United States Attorney, hereby submits this request for additional time to file its opposition to defendant John That Luong's motion to dismiss re: Pinkerton Theory and Hobbs Act, and motion to dismiss the indictment.

On December 3, 2009, this Court issued an order for the government to file its opposition to defendant John That Luong's motion to dismiss the indictment (**Ct. dkt. 1348**) and motion to dismiss re: Pinkerton Theory/Hobbs Act (**Ct. dkt. 1353**) on or before December 21, 2009.

1 The court granted the government's request to file its
2 opposition on December 31, 2009. However, on December 29, 2009
3 counsel for defendant John That Luong emailed the government
4 informing the parties that because of a conflict in his schedule
5 with a RICO case in Fresno, defendant Luong is requesting a change
6 in the sentencing date of January 19, 2010. After an exchange of
7 emails and telephone calls, defendant Luong's counsel, Richard
8 Mazer, and the government spoke on telephone on Tuesday, December
9 29, 2009. During this conversation, government's counsel agreed to
10 not oppose the request by defendant Luong to continue the sentencing
11 date to February 22, 2010, or later, depending on the court's
12 availability. Furthermore, counsel for the government requested a
13 change in the dates for the filing of the government's opposition
14 and the defendant's reply, if any, because of the change in the
15 sentencing date, due to the short staff at the U.S. Attorney's
16 Office during the holidays, and to give the government additional
17 time to respond considering the holiday season. Defendant Luong's
18 counsel, Richard Mazer, had no objection to a revised motion
19 schedule in light of the anticipated change in the sentencing date.

20 Counsel for the government respectfully requested and the Court
21 granted additional time to February 5, 2010, to file its opposition
22 to the aforesaid motions filed by defendant John That Luong.

23 The Court granted the defendant's request to continue their
24 sentencing date to March 1, 2010. The government is not requesting
25 a change in the sentencing date.

26 Counsel for the government has been involved in researching and
27 responding to a complicated motion to suppress evidence in United
28 States v. Holmes, CR S 08-325 EJG, which was also due on February 5,

2010. The Holmes suppression motion presented complicated legal issues that took an extraordinary amount of time to research and write. Furthermore, counsel for the government has been preparing for an oral argument of four appellate cases in United States v. Michael Dennis Williams, CA 06-10369, United States v. Kenneth Rodgers, CA 06-10378, United States v. Shondor Arceneaux, CA 06-10381, and United States v. Derek Maddox, CA 08-10042, which have been consolidated for oral argument on February 8, 2010, at the Ninth Circuit Court of Appeals. Counsel for the government is requesting additional time to February 10, 2010 to file its response. The defendant's reply could be filed by February 22, 2010. The hearing on the motions should remain as set for March 1, 2010.

Respectfully submitted,

BENJAMIN B. WAGNER
United States Attorney


DATED: February 5, 2010

By: /s/ William S. Wong
WILLIAM S. WONG
Assistant U.S. Attorney

ORDER

For the foregoing reasons and good cause having been shown, the government's opposition is now due on February 10, 2010. The defendant's reply, if any, is ordered to be filed on February 22, 2010, and the hearing on the motions is set for March 1, 2010, at 9:00 a.m.

DATED: February 5, 2010


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE